

**From:** [Swenson, Peter](#)  
**To:** (b)(6)  
**Subject:** Re: Back Forty Mine - Public Concern Response Reply  
**Date:** Monday, November 28, 2016 7:15:10 AM

Thank you for your feedback (b) (6) I have shared your message with others here reviewing the project.

Peter Swenson

Sent from my iPhone

On Nov 25, 2016, at 4:31 PM, (b)(6)(b)(6)(b)(6)(b)(6)(b)(6)(b)(6) > wrote:

Peter, I can't thank you enough for the response to my inquiry and concern over the Michigan Back Forty Mine permit process, and all the information you provided.

It will be invaluable for those of us following the process with DEQ and related agencies. Thanks as well for the contact information for further questions regarding NEPA. The work you and your colleagues do for EPA is so critical to our country's environment and health, and must continue.

From my personal view, I very much hope the president-elect's nominee for the EPA is rejected by congress and is replaced by someone with the proper credentials and philosophy appropriate to this vital agency. Keep up the good work.

Regards,

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**From:** Swenson, Peter <[swenson.peter@epa.gov](mailto:swenson.peter@epa.gov)>  
**Sent:** Friday, November 25, 2016 12:16 PM  
**To:** (b)(6)(b)(6)(b)(6)(b)(6)(b)(6)  
**Subject:** FW: Back Forty Mine - Public Concern Response

Dear (b)(6)(b)(6)

Thank you for your recent email message requesting that EPA prepare an environmental impact study for the proposed Aquila Resources, Inc. Back Forty mine, northwest of Stephenson in Menominee County, Michigan. Environmental Impact Statements are prepared under the National Environmental Policy Act by lead federal agencies to inform federal decision making. Because there are no federal decisions to be made on the Back Forty Mine project, the National Environmental Policy Act is not triggered. All permitting decisions required for this mine project rest with the State of Michigan.

The Michigan Department of Environmental Quality (MDEQ) has primary responsibility for regulating the Back 40 mine as the permitting authority. This includes implementing federal requirements under Section 402 of the Clean Water Act (CWA) (regulating wastewater discharges into waters of the United States), Section 404 of the CWA (regulating discharges of fill into waters of the U.S.), and the Clean Air Act (CAA) (regulating air emissions). MDEQ also operates a separate Permit to Mine program under state authority.

EPA maintains an oversight role for the MDEQ permits that implement federal requirements under the CWA and the CAA. EPA reviewed and commented on MDEQ's draft permit under CWA Section 402, and the draft air pollution construction permit issued pursuant to Michigan's Part 2 minor source construction permitting program. MDEQ solicited public comment on both of those draft permits through November 3, 2016. EPA's comment letters are enclosed. EPA will take your comments into consideration as it continues to review MDEQ's proposed actions after MDEQ reviews and responds to comments.

EPA objected to the issuance of a Michigan wetlands and inland lakes and streams permit (CWA Section 404) on August 15, 2016, because Aquila had not demonstrated compliance with the CWA Section 404. EPA also noted concerns regarding cultural resources and requested that MDEQ confirm its coordination with Michigan's State Historical Preservation Officer and Tribal archeologists. A copy of EPA's August 15, 2016 letter is also attached. On September 23, 2016, Aquila withdrew its CWA Section 404 application with the intention of reapplying to MDEQ, in which case there would likely be another public comment period and hearing for the wetlands and inland lakes and streams permit at a later date. EPA would restart its Section 404 oversight review of the project based on the new application.

Thank you for sharing your input on this project. If you have further questions about NEPA, please contact Ken Westlake, Chief, NEPA Implementation

Section, at 312-886-2910 and [westlake.kenneth@epa.gov](mailto:westlake.kenneth@epa.gov). Surface water permitting questions can be directed to Krista McKim, 312-312-353-8270 and [mckim.krista@epa.gov](mailto:mckim.krista@epa.gov). Wetlands permitting questions can be directed to Melanie Burdick at 312-886-2255 and [burdick.melanie@epa.gov](mailto:burdick.melanie@epa.gov). Air permitting questions can be directed to Constantine Blathras at 312-886-0671 and [blathras.constantine@epa.gov](mailto:blathras.constantine@epa.gov).

Sincerely,

*Peter Swenson (WW-16J)*

*Chief, Watersheds and Wetlands Branch*

*U.S. Environmental Protection Agency, Region 5*

*77 West Jackson Boulevard*

*Chicago, Illinois 60604*

[swenson.peter@epa.gov](mailto:swenson.peter@epa.gov)

Begin forwarded message:

Greetings. I'm writing in comment about the EPA upcoming permit decisions pending on the controversial Aquila Resources Back Forty Mine in Menominee County, Michigan (Region 5).

As a native of that area now living in Colorado, I became aware of the mine proposal a few years ago and only recently learned it had been given new life and was apparently now on a fast track under the review of the Michigan Department of Environmental Quality. I've been a print and broadcast journalist for more than 35 years, with experience in environmental issues and regulatory agencies.

I wish to state emphatically my opposition to this mammoth open-pit mine inexplicably planned for the banks of the Menominee River and strongly urge the EPA deny the wetlands protection and other last permits sought by Aquila and instead undertake an independent Environmental Impact Statement, slow or halt the approval process and review the MDEQ's

handling of the multiple environmental concerns posed by this mine.

The mine company has put millions of dollars into their efforts to convince the DEQ that despite their lack of experience with a gigantic operation of this type and the vulnerability of one of upper Michigan largest watersheds, they can prevent any devastation. The local residents cannot not match the financial clout or technical salesmanship of these mine proponents/investors, but the overwhelming opposition to this project should not be given short shrift.

The potential for harm from cyanide gold extraction, acid leaching from hundreds of thousands of tons of waste rock, heavy silting of the water of this large watershed, devastation of the river and bay fishery, including a very rare sturgeon breeding population and the economic impact on a priceless recreational resource, I feel, demands critical examination from an unbiased regulatory agency. Along with myriad other unanswered questions, at a minimum the current wetlands permit should be frozen pending a more detailed overall review.

Only the EPA can perform the kind of detailed scientific examination demanded here, out of the shadow of mine proponents' 'models' of mine safeguards they have very little real-world experience with and in spite of what in my opinion is the DEQ's biased attitude toward the extractive industries and their renewed aggressive push to greatly expand mining in the Upper Peninsula.

One only need consider the errors that resulted in the Flint water crisis, and I also harken back to our experience here in Colorado with the Gold King Mine's devastating spill into the Animus River by an independent contractor (while EPA was doing its best to mitigate continuing seepage of toxic mine waste) as reminders that environmental devastation can occur years or decades after projects are ended and otherwise forgotten.

This mine also threatens ancient tribal lands and burial sites of the Menominee Indians, which the company and DEQ have failed to address.

The Menominee is a large border waterway with a healthy fishery and biological diversity and represents a recreational resource that pay many long-term

benefits for residents too often ignored by proponents and their questionable claim of hundreds of jobs that will be provided.

This type of massive open-pit operation immediately adjacent to such a valuable waterway has never made any environmental sense and the multiple threats from this operation (I would add that two cities' water intakes are located in fairly close proximity to the river mouth in the bay of Green Bay) are too simply too great.

Please take into consideration the overwhelming opposition to this mine by residents of the area (98 percent) and many local governments and delay any further approvals pending an independent EIS.

Thanks you for the work you do on citizens' behalf and for providing an opportunity to express my opinion and pitch for a sane review process.

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